

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL JAY LEE HARVEY,

Petitioner,

v.

PAT GLEBE,

Respondent.

CASE NO. C13-6094 BHS-KLS

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. This matter is before the Court on petitioner's filing of a motion for appointment of counsel. Dkt. #10. The Court, having reviewed petitioner's motion, hereby finds and ORDERS as follows:

There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254, unless an evidentiary hearing is required or such appointment is "necessary for the effective utilization of discovery procedures." *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9<sup>th</sup> Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9<sup>th</sup> Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9<sup>th</sup> Cir. 1983); Rules

1 Governing 28 U.S.C. §2254 Cases in the United States District Courts 6(a) and 8(c). The Court  
2 also may appoint counsel “at any stage of the case if the interest of justice so require.” *Weygandt*,  
3 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court “must evaluate the  
4 likelihood of success on the merits as well as the ability of the petitioner to articulate his claims  
5 pro se in light of the complexity of the legal issues involved.” *Id.*

6 Petitioner has not requested that he be allowed to conduct discovery in this matter, nor  
7 does the Court find good cause for granting him leave to do so at this stage of the proceedings.  
8 See Rule Governing 28 U.S.C. § 2254 Cases in the United States District Courts 6(a). In  
9 addition, the Court has not determined an evidentiary hearing will be required in this case, nor  
10 does it appear one is needed at this point. See Rule Governing 28 U.S.C. § 2254 Cases in the  
11 United States District Courts 8(c). Petitioner has not shown that his particular conditions of  
12 confinement are such that “the interests of Justice” require appointment of counsel.

13 Accordingly, petitioner’s motion for appointment of counsel is denied (Dkt. #10) hereby  
14 is DENIED.

15 The Clerk shall send a copy of this Order to Petitioner and to counsel for respondent.

16 Dated this 19 day of February, 2014.

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Karen L. Strombom  
United States Magistrate Judge